IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3666 OF 2005

The State of Maharashtra .... Applicant
Vs.
Pratap Eknath Patil .... Respondent

Mr. S.R. Shinde, APP for the Applicant.

CORAM : SMT. V.K. TAHILRAMANI,J.
DATE : 15TH FEBRUARY 2007

P.C.

1) Heard learned APP for the Applicant - State of Maharashtra. Perused the judgment and the copies of the evidence produced by the learned A.P.P.

2) Being aggrieved by the judgment and order dtd. 30/09/2004 in Sessions Case No. 43 of 2004 passed by the learned I- Adhoc Additional Sessions Judge, Satara, this application has been preferred by the State of Maharashtra. By the said judgment and order, the learned Sessions Judge acquitted the accused for the offences under Sections 328, 379 read with 34 of Indian Penal Code.

3) It is the case of the prosecution that the

complainant- Yamunabai along with her husband Vasant was to attend a marriage on 8/6/2003 at village Varye. In order to go to village Varye, at about 8.00 am., they accepted a lift from a jeep driver. When the jeep was proceeding on the road, the driver gave them some sweets (pedhas). As soon as the complainant and her husband consumed the pedhas, they became unconscious. They regained consciousness at about 5.30 pm. within the limits of village Limb. When the complainant regained her consciousness, she came to know that her gold ornaments were stolen. Thereafter complaint came to be lodged.

4) First of all in the present case, there is delay of about three months in lodging the F.I.R.. Though the incident took place on 8/6/2003, the complaint was lodged on 11/9/2003. The prosecution has not explained this inordinate delay. Moreover, it is an admitted fact that the driver of the jeep i.e. the present respondent was unknown to the witnesses. Admittedly no identification parade has been held. These two lacunas would fatally affect the prosecution case. In this view of the matter, I am of the opinion that the view taken by the learned Sessions Judge is a reasonable and possible view.

5) It is well settled that if the view of acquittal would have been reasonably arrived at, then the mere circumstance that the Appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew, prolixity I am referring to two of that i.e. A.I.R. 1971 S.C. 66 Khedu Mohton and others Vs. State of Bihar and C. Anthony Vs. K.G. Raghvan Nair (2003) 1 SCC-1. In the case of C. Anthony, the Supreme Court has observed that unless findings of the Trial Court are perverse or contrary to the material on record, the High Court cannot in appeal substitute it's findings, merely because another contrary opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Sessions Judge is a reasonable and possible view, hence, no interference is called for.

6) Application is rejected.

(SMT. V.K. TAHILRAMANI, J.)